

## Form 36 (Joint Application Form) Instructions

### 1. INTRODUCTION

Laws of the United States and the State of Iowa have assigned the US Army Corps of Engineers and the Iowa Department of Natural Resources with specific and different regulatory roles designed to protect the waters within and on the State's boundaries.

Protecting Iowa's waters is a cooperative effort between the applicant and regulatory agencies. This application package has been designed to assist applicants in initiating the permit process with both agencies for construction, excavation or filling in a water of the state or on a floodplain. Instructions and application forms are contained within the package. This application package also contains a description of the activities that are regulated by these agencies, the applicant's role in protecting Iowa's waters, an explanation of the agencies roles, and a description of the application process.

### 2. REGULATED ACTIVITIES – WHO MUST APPLY

Construction, excavation or filling in streams, lakes, wetlands, or on floodplains may require permits from both agencies. The attached application form is to be used to begin the permit process for any of the following activities:

- a. cutting the bank of a river or stream;
- b. any excavation or dredging in a stream or river channel; channel changes or relocations (including stream straightening);
- c. construction of any permanent dock, pier, wharf, seawall, boat ramp, beach, intake or outfall structure on a stream, river, or lake;
- d. placement of any fill, riprap, or similar material in a stream, river channel, lake, or wetland;
- e. construction of a dam across any waterway;
- f. placement of fill, construction of levees, roadways and bridges; and similar activities on a floodplain; or
- g. construction of buildings on a floodplain.

NOTE: The above list of activities is NOT all inclusive.

The Iowa Department of Natural Resources also requires permits for the construction and operation of water and wastewater treatment facilities, water withdrawal, water storage, and solid waste disposal and should be contacted for information about these permits.

### 3. THE APPLICANT'S ROLE

The applicant's role is to obtain the necessary approvals and permits to conduct an activity including:

- a. State 404 water quality certification.
- b. All other Federal, state and local permits are obtained.

### 4. REGULATORY AGENCIES' ROLES

In Iowa, two agencies administer permit programs for protecting the state's water resources and ensuring their wise use. These agencies are:

The US Army Corps of Engineers; and The Iowa Department of Natural Resources

Their roles, when considered together, include the protection of navigable waters; protection against unwise floodplain development; ensuring the wise and beneficial use of water; maintenance and enhancement of water quality; protection of fish and wildlife habitat and protection of the public interest.

The regulatory programs administered by each of these two agencies are described in more detail in Section 8, "Permit Programs." Each regulatory program listed under "Permit Programs" has distinctive review criteria and administrative and legal requirements.

### 5. THE PERMIT PROCESS

The application package is designed to assist the prospective applicant in meeting the various legal and administrative requirements of both agencies. By following the instructions for completing the application form and submitting a copy to each of the agencies listed in the instructions, the permit process is initiated. Each agency will review the application form to determine whether a permit (or permits) will be required. If a permit or permits are required you will be notified of that and whether any additional information will be needed before the permit can be processed. If a permit is not required from either agency receiving your application, you will be notified by that agency. **Be sure to allow 90 to 120 days for application review and processing.** Complex projects may take longer to authorize. Proceeding without the necessary permits is against state and Federal laws and may result in legal proceedings and fines.

### 6. PRELIMINARY COORDINATION

If you are unsure whether a particular action or project is regulated and requires a permit, or if you wish to discuss specific concerns with any agency, please call. The agencies and telephone numbers are listed in the instructions of the application form.

### 7. REPORTING UNAUTHORIZED CONSTRUCTION

Although the permit programs described in Section 8 on page 2 use the permit requirement mechanism to protect our waters, the programs also have specific powers to deal with unauthorized projects or activities. If you wish to request an investigation of a project which may be unauthorized, contact either of the agencies listed. Specific information describing the activity, dates and individuals involved, as well as photographs are extremely helpful and should be forwarded whenever possible. Remember, protecting Iowa's waters is a cooperative effort.

### 8. PERMIT PROGRAMS

#### US ARMY CORPS OF ENGINEERS

The basis for the US Army Corps of Engineers regulatory functions over public waterways was formed in 1899 when Congress passed the Rivers and Harbors Act of 1899. Until 1968, the Rivers and Harbors Act of 1899 was administered to protect only navigation and the navigable capacity of this nation's waters. In 1968, in response to a growing national concern for environmental values,

the policy for review of permit applications with respect to Sections 9 and 10 of the Rivers and Harbors Act was revised to include additional concerns (fish and wildlife, conservation, pollution, aesthetics, ecology, and general welfare) besides navigation. This new type of review was identified as a “public interest review.”

The Corps of Engineers regulatory function was expanded when Congress passed the Federal Water Pollution Control Act Amendments of 1972. The purpose of the Federal Water Pollution Control Act was to restore and maintain the chemical, physical, and biological integrity of this nation’s waters. Section 402 of the Act established the National Pollutant Discharge Elimination System (NPDES) to regulate industrial and municipal source discharges of pollutants into the nation’s waters. The NPDES permit program is administered by the Iowa Department of Natural Resources and should not be confused with the Corps of Engineer’s Section 404 permit program. Section 404 of the Federal Water Pollution Control Act (now called the Clean Water Act due to amendments in 1977) established a permit program to be administered by the Corps of Engineers to regulate the nonpoint source discharges of dredged or fill material into waters of the United States.

These regulations can be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) (33 CFR Parts 320-332)

#### **IOWA DEPARTMENT OF NATURAL RESOURCES**

The Iowa Department of Natural Resources (DNR) is the state agency created by consolidating all previous duties of the Department of Water, Air, and Waste Management; the Conservation Commission; the Energy Policy Council; and the Iowa Geological Survey. The DNR administers permit programs for conserving and protecting Iowa’s water, recreational and environmental resources, and, for the prevention of damage resulting from unwise floodplain development. The Department also has jurisdiction over sovereign lands and waters and certain fee title lands of the State (Iowa Code, Chapters 106 and 111). On meandered streams and lakes, sovereign state property is that land below the ordinary high water mark.

A summary of the Department’s permit programs relating to protection of water and recreational resources and adjacent lands, is as follows:

##### **a. Floodplain Construction Permits**

The Department has authority to regulate construction on all floodplains and floodways in the state. The Department’s administrative rules explain when a permit must be obtained for various types of floodway/floodplain-development. Examples are channel straightening, levee construction, excavation and stockpiling of overburden and rock materials, building construction, dams, stream crossings, and bank protection work. Any person who plans to perform or allow such floodplain construction has a duty to contact the Department to determine if a floodplain construction permit is needed.

##### **b. Water Quality Certification**

State Section 401 water quality certification is mandatory for all projects requiring a Federal Section 404 permit. Section 401 water quality certification is the Department’s concurrence that a project is consistent with the state’s water quality standards. Short and long-term impacts to water quality and water-related uses are evaluated in the Section 401 certification review.

##### **c. Construction Permits**

Pursuant to Section 114.4 of the Iowa Code, the Iowa Department of Natural Resources may authorize a person, association, or corporation to build or erect any pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind upon the jurisdiction of the Iowa Department of Natural Resources when it is found to be in the best interest of the public.

##### **d. Special Applications**

Non-permanent docks – (This is the standard recreational boat dock.) Special dock permit application forms are available throughout the state at all Iowa Department of Natural Resources field offices, and at the Iowa Department of Natural Resources central office located in Des Moines, Iowa. If your project involves a dock structure, then the dock permit application form should be sent to the Iowa Department of Natural Resources conservation officer in your area, in lieu of the forms in this packet.

If your dock is located along the Mississippi River, Missouri River or on a Corps managed reservoir, you should send the completed application form in this packet to the Corps of Engineers only.

Sand and Aggregate Removal from Meandered Streams – special application forms are required. These are available at the Iowa Department of Natural Resources, Land Acquisition and Management Bureau, Wallace State Office Building, Des Moines, Iowa 50319.

##### **e. Other Permits Related to Water Resources**

Additional Departmental permits may be required depending upon the project. Examples of additional permits from the Department relate to the construction and operation of water and wastewater treatment facilities, water withdrawal and water storage permits, solid waste disposal, air quality permits, etc.

**IMPORTANT: Mitigation for wetland or stream impacts resulting from your proposed actions may be a permit requirement.** You will first be required to look at project alternatives that avoid and/or minimize impacts to waters and wetlands. Prior to completing your application, it is recommended that you read through the wetland and stream mitigation information available on the Web at: [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx). (33 CFR, Part 332) This may help you avoid or minimize wetland and stream impacts, thus reducing or eliminating the requirement for mitigation.

Should you have any questions, please contact our Regulatory Branch by letter, or telephone 309/794-5376.

**571 Iowa Administrative Code Chapter 13**, which governs the Iowa Department of Natural Resource's Sovereign Lands Construction Permit program, was revised April 15, 2009. The application standards have been strengthened with this rule change. See below:

**571—13.9(455A, 461A, 462A) Permit application.** Applicants shall apply for permits using an application form provided by the department. Applicants shall state the need for the proposed construction or use, the availability of alternatives, and the measures proposed to prevent, minimize or mitigate adverse impacts to natural resources or public use of the affected area. The department reserves the right to refuse to review incomplete applications. Each application, including all amendments, shall be signed by the applicant and authorized agent if one shall be so appointed by the applicant. The applicant's signature shall acknowledge that the application is accurate and made in good faith.

**571-13.9(1)** For purposes of this rule, the department will deem an application complete if the application meets all of the following criteria. The application:

- a. Is provided on the department's form and all fields are completed and legible;
- b. Includes the name(s), mailing address and telephone number of the applicant(s) and authorized agent(s), if applicable;
- c. Describes the proposed activity, including:

(1) Physical address and legal description of the location where the proposed activity is to occur; a written description of existing natural and man-made structures and features; an aerial photograph, if possible or available; and a ground-level photograph(s) showing the area where the activity is proposed to occur;

(2) Schematic or design plans, including cross-sections and plan views, that accurately and clearly depict the proposed activities;

(3) Description of the construction methods used to complete the project, the methods used to transport material to the site, and the type and amount of material to be used;

(4) Description of measures proposed to prevent or minimize adverse impacts on the property in the proposed area;

(5) Description of any borrow or disposal sites, including the location of any borrows or disposal sites and the type and amount of material to be borrowed or disposed of in them;

- d. Includes identification of the ordinary high water line, if the proposed activities are in or near a meandered sovereign lake or meandered sovereign river;
- e. Describes alternative plans to undertake the activity that may be available to the applicant;
- f. Identifies the need for the proposed activity in the proposed project area;

- g. Provides a statement of consent for the department to enter the property during the term of the proposed permit.

**571-13.9(2)** For applications that provide for an authorized agent to perform part or all of the proposed activities, the following additional information shall be required to constitute a complete application:

- a. Statement signed by authorized agent and applicant;
- b. Statement signed by the authorized agent acknowledging that the authorized agent is aware of such designation and is responsible to complete the identified work; and
- c. Description of the work to be completed by the authorized agent.

The POC for questions concerning IAC 571—13 can be reached at (515) 725-8464. Information about the Sovereign Lands Construction Permit program is available from the DNR website at <http://www.iowadnr.gov/other/slands.html>.

## **9. INSTRUCTIONS FOR COMPLETING THE JOINT APPLICATION FORM**

**Four copies of the application form and drawing sheets are required.** Submitted to each agency specified on the bottom of each form (One copy to the Corps, two to the DNR and one copy for the applicant.) The mailing address and telephone number of each agency is provided in Section 11. The copy labeled "Applicant's Copy" is for the applicant's records. The application form may be photocopied.

It is very important that the application is complete and accurate. If additional space is needed for any item on the application form, attach a separate sheet of paper to the application sent to each agency.

## **IF YOU NEED ASSISTANCE IN FILLING OUT THE APPLICATION FORM, PLEASE CALL ANY AGENCY OFFICE LISTED.**

Additional information may be required by any or all of the agencies before further processing of your application may proceed. The applicant will, however, be notified of such needs by the agencies.

General instructions for completing the application form are provided on the form itself. Specific instructions on completing the form and the information to be provided on the drawings are provided in Section 10.

Information in the application is a matter of public record and may be disclosed through issuance of a public notice. Disclosure of the information requested is voluntary; however, the data requested is necessary in order to communicate with the applicant and to evaluate the permit application. If necessary information is not provided, the permit application cannot be processed nor can a permit be issued.

18 United States Code Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency

of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

Applicant is informed that all approvals must be obtained before work can be started.

#### **10. SPECIAL INSTRUCTIONS FOR COMPLETING THE JOINT APPLICATION FORM**

**Blocks 1 and 2 For Agency Use.** To be completed by Corps of Engineers and/or Iowa Department of Natural Resources.

**Block 3(a and b) Applicant(s).** The applicant(s) shall be the person(s), firm(s), corporation(s), etc who have or will have the responsibility for the property on which the project will be located by reason of ownership, easement, or other agreement. If the property is not presently owned by the applicant, attach an explanation of any easements or rights-of-way which have been or will be obtained or how such land will be acquired. If a project is being proposed by a lessee, the lessee and lessor should be joint applicants. In some instances, agency staff may request additional information on all parties having a legal or equitable interest in the involved land.

**Applicant's Name.** Enter the name of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

**Address of Applicant.** Please provide the full mailing address of the party or parties responsible for the application.

**Email Address of Applicant.** Please provide the email address of the party or parties responsible for the application.

**Applicant Telephone Number(s).** Please provide the number where you can usually be reached during normal business hours.

**List all applicants.** Space has been provided for the listing of two applicants. Attach an additional sheet (marked Block 3) if more space is needed.

**Block 4 – Authorized Agent.** If the applicant designates an authorized agent for the purpose of obtaining the permits, list the name, address, and phone number of the authorized agent in Block 4. During the permit process, all correspondence, such as requests for additional information, will be sent to the authorized agent.

**Authorized Agent's Name and Title.** Indicate name of individual or agency, designated by you, to represent you in this process. An

agent can be an attorney, builder, contractor, engineer, or any other person or organization. Note: An agent is not required.

**Agent's Address and Telephone Number.** Please provide the complete mailing address of the agent, along with the telephone number where he / she can be reached during normal business hours.

**Statement of Authorization.** To be completed by applicant, if an agent is to be employed.

**Block 5. Names and Mailing Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Project Site.** List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the water body or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked Block 5. **Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be developed.**

**Block 6. Proposed Project Name or Title.** Please provide name identifying the proposed project, e.g., Landmark Plaza, Burned Hills Subdivision, or Edsall Commercial Center.

**Block 7. Project Description.** Describe the overall activity or project. Give appropriate dimensions of structures such as wing walls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles, or float-supported platforms. The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 7.

**Block 8. Proposed Project Purpose and Need.** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work. If additional space is needed, attach an extra sheet of paper marked Block 8.

**Submission of additional appropriate form(s) is required by the Iowa Department of Natural Resources Flood Plain Management Program (also known in this form as the Flood Plain Permits Section). The forms for various project types can be obtained online at <http://www.iowadnr.gov/water/floodplain/fppermits.html> or by calling 866/849-0321.**

**COMPLETE THE FOLLOWING FOUR BLOCKS IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED.** Provide Iowa Department of Natural Resources material analysis data as required.

**Block 9. Reasons for Discharge.** If the activity involves the discharge of dredged and/or fill material into a wetland or other water body, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

**Block 10. Types of Material Being Discharged and the Amount of Each Type in Cubic Yards.** Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

**Block 11. Surface Areas of Wetlands or Other Waters Filled.** Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a water body. If more space is needed, attach an extra sheet of paper marked Block 11.

**Block 12. Description of Avoidance, Minimization, and Compensation.** Provide a brief explanation describing how impacts to waters of the United States are being avoided and minimized on the project site. Also provide a brief description of how impacts to waters of the United States will be compensated for, or a brief statement explaining why compensatory mitigation should not be required for those impacts. If additional space is needed, attach an extra sheet of paper marked Block 12.

**Block 13. Project Location.**

**Latitude and Longitude.** Enter the latitude and longitude of where the proposed project is located.

**GIS Coordinates in NAD 1983 UTM Zone 15 Northing and Easting.** Enter the Northing and Easting coordinates of where the proposed project is located. Include coordinate system information.

**Proposed Project Street Address.** If the proposed project is located at a site having a street address (not a box number), please enter it here.

**Other Location Descriptions.** Please provide the Section, Township, and Range of the site, and / or local Municipality that the site is located in or near, as well as the County, State and Zip code.

**Name of Waterway.** Please provide the name of any stream, lake, marsh, or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterway the minor stream enters. If a large river or stream, include the river mile of the proposed project site if known.

Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site. You may also provide description of the proposed project location, such as lot numbers, tract numbers, or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile downstream from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project site if known.

**Block 14. Date activity is proposed to commence and be completed.** Please provide the date (if known) that you intend to start work, as well as the date work should be completed.

**Block 15. Is Any Portion of the Work Already Complete?** Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other water body (in acres or square feet). If the work was done under an existing Corps permit, identify the authorization, if possible.

**Block 16. Information about Approvals or Denials by Other Agencies.** You may need the approval of other federal, state, or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

**Block 17. Consent to enter property listed in Block 13.**

**Block 18. Application Verification.** This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

The application must be signed by each applicant. However, the application may be signed by a duly authorized agent (Name in Block 4) if this form is accompanied by a statement by the applicant(s) designating the agent.

**NOTE:**

- If the applicant is a corporation, the president or other authorized officer shall sign the application form.
- If the applicant is a county, city or other political subdivision, the application form shall be assigned by an appropriate authorized officer.
- If the applicant is a partnership, each partner shall sign the application form.
- If the applicant is a trust, the trust officer shall sign the name of the trustee by him (or her) as trust officer. A disclosure affidavit must be filed with the application, identifying each beneficiary of the trust by name and address and defining the respective interest therein.

**Directions to the Site.** On a separate sheet, please provide directions to the site from a known location or landmark.

## DRAWINGS AND ILLUSTRATIONS

### General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity/Location Map, a Plan View or a Typical Cross-Section Map. Please submit one original, or good quality copy, of all drawings on 8½ x11 inch plain white paper (electronic media may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section).

**While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.**

Certified engineering plans may be submitted in lieu of the drawing sheets if the magnitude of the project warrants. (Note: The Department of Natural Resources may require submission of certified engineering plans.)

- (1) A vicinity/location map which shows: ( For help go to <http://cairo.gis.iastate.edu/search.html>)
  - a. project site;
  - b. name of waterway;
  - c. name of and distance to local town, community or other identifying location such as roads; and
  - d. north arrow.
- (2) A plan (overhead) view of the project showing:
  - a. existing wetland boundary and/or shoreline and the normal water surface elevation (if mean sea level datum is not used, adjustment should be indicated);
  - b. adjacent property lines and ownership as listed in the application form;
  - c. principal dimensions of the structure or work and extent of encroachment into the waterway (as measured from a fixed structure or object);
  - d. floodway/floodplain lines if established and if known;
  - e. north arrow; and
  - f. graphic or numerical scale.
- (3) A cross-sectional view of the project showing:
  - a. wetland boundary and/or shoreline, elevations, extent of encroachment, principal dimensions of the work as shown in plan view; and
  - b. graphic or numerical scales (horizontal and vertical).

## 11. AGENCY MAILING ADDRESSES

Send appropriate copies of the completed application to each agency listed below. (Agencies are specified at the bottom of each sheet in the packet.)

Corps of Engineers (1 copy) Choose the appropriate address. The Omaha District has regulatory jurisdiction over the Missouri River, its contiguous wetlands, and Carter Lake. The remainder of the projects occurring in Iowa are regulated by the Rock Island District.

### ROCK ISLAND DISTRICT

US Army Engineer District  
Rock Island Corps of Engineers  
Clock Tower Building  
Post Office Box 2004  
Rock Island, Illinois 61204-2004

Tel: (309) 794-5376  
OR

### OMAHA DISTRICT

US Army Engineer District  
Omaha Corps of Engineers Regulatory Office  
1616 Capital Ave, Ste 9000  
Omaha, Nebraska 68100-9000

Tel: (402) 896-0723

Send 2 copies of the application form and attachments to the Iowa Department of Natural Resources at the address below.

The Iowa Department of Natural Resources  
Flood Plain and Sovereign Lands Sections  
502 E 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034

Tel: (866) 849-0321

For information on specific permitting activities, telephone:

Flood Plain Permits	(866) 849-0321
Sovereign Land – Fee Title	(515) 725-8464
Water Quality Certification	(515) 725-8399
Recreational Boat Docks	(515) 725-8479
Sand and Gravel Permits	(515) 725-8459